

CC Docket No. 02-6

Request for Review

Name of Billed Entity: Scranton Public Library

Billed Entity Number: 125994

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Subject: Rejection of 471 776424 and Commitment Adjustments for 471s 442455, 495363, 541934, 592057, 649268, and 713891

We would like to appeal USAC's decision to reject 471 776424 (Funding Year 2011-2012) and their decision to adjust commitments for the following prior year 471s:

2005-2006: 442455

2006-2007: 495363

2007-2008: 541934

2008-2009: 592057

2009-2010: 649268

2010-2011: 713891

All of these 471s pertain to cellular service on the library's Bookmobile.

The reason given for the rejection of 471 776424 was as follows: "The Form 470 that established the competitive bidding process for this FRN does not include service of this type; Internet Access; therefore, it does not meet the 28 day competitive bidding requirement."

The reason given for the commitment adjustments was as follows:

“...your Form 470 did not include the service(s) for which you sought funding in your 471 application... The funding request is for wireless / cellular internet service and was classified as telecom service. This service should have been classified as internet access service... Since the service for which you sought funding was not properly posted to the website for competitive bidding, the commitment has been rescinded in full and USAC will seek recovery of any disbursed funds.”

We would like to appeal these decisions for the following reasons:

1. While the cellular service on the Bookmobile does use the public IP-based Internet for data transmission, it is not used for web browsing which is the activity most associated with the phrase “Internet access.” The laptops on the Bookmobile utilize a Sierra Wireless Aircard 860 to send and receive database transactions from the server at the main library. The cellular device is technically separate from the computing device.
2. The “List of Eligible Services” for 2009, 2010, and 2011 states the following: “If Internet access is being requested in the Telecommunications category, applicants must indicate that Internet access is being sought when filing FCC Form 470.” On 470 Application Number 172910000851826, which governs 471 776424, and the 470s that govern the 471s affected by the Funding Commitment Adjustment, the following description is included under Service or Function: “Mobile computing using cellular infrastructure. Quantity and / or Capacity: 2 Workstations.” The Item 21 attachment states: “Cellular service connecting two Bookmobile workstations to library automation server via the Internet.” We assert that the mention of “mobile computing using cellular infrastructure” in the form and the phrase “via the Internet” in the attachment indicate to any interested vendor that the public, IP-based Internet is part of the requested service package. Therefore, the requirement specified in the “List of Eligible Services” has been fulfilled. Please note that the “List of Eligible Services” does not state the service must be categorized as Internet Access just that the applicant must “indicate that Internet access is being sought...” Given the way this service is used on the Bookmobile (for database transactions and not “Internet access” as it is commonly understood), we feel we have fulfilled this obligation.

It is our opinion that current and past requirements, which ask the applicant to judge whether a given service is Telecommunications or Internet Access, are unreasonable given the rapidly evolving nature of cellular voice and data services (especially over the last six years) and the development of new mobile devices such as SmartPhones. The State E-Rate Coordinators agree and have urged the FCC to combine Telecom and Internet access categories on the 470. Specifically, the State E-rate Coordinators' Alliance commented as follows in August 2007:

We understand the FCC's requirement that telecommunications services be provided by an eligible telecommunications provider and agree that the proper category of service be selected on the Form 471. But we do not believe it is fair to deny a funding request simply because the applicant listed their T-1 line on the Form 470 under the Internet Access category instead of the Telecommunications category, or because they listed their Internet broadband service under the Telecommunications category by mistake. To many applicants, there is little distinction between telecommunications services and Internet access and it is often difficult to discern which category to choose. The SLD's advice, and subsequently State E-

rate Coordinators' advice, to resolve this issue is to list every Priority 1 service in both categories which is just a band-aid to the problem instead of a real solution. From our discussions with Priority 1 service providers – both large and small – they do not search Form 470s for only one particular category of service. They know that the services they offer are likely to be found in both categories, either on purpose or by mistake. ...Further, it is becoming increasingly common for telecommunications services and Internet access services to be bundled together under one service offering. For example, the recent addition of cellular data packages including e-mail and internet is eligible, but only if the cellular service is listed on the Telecommunications Service category on the 470 and the data, e-mail and Internet service is listed on the Internet Access category. Then on the Form 471, applicants may bundle all of these services together under the Telecommunications Service category. These bundled packages and the rules governing which portions of the bundle must be requested in which category of service have led to reductions in funding and widespread confusion in the applicant community.

This “confusion” is exacerbated by the fact that the List of Eligible Services does not emphasize, as we demonstrated above, the importance of checking Internet Access in the 470. Furthermore, the fact that USAC approved these funding requests for 2006-2010 and are only now seeking adjustments indicates that even those who enforce the rules do not clearly understand them.

Our Bookmobile Service is primarily state funded and, in the State of Pennsylvania, aid to libraries has been cut 38% over the last three years. Paying the telecommunications charges without discounts in 2011-2012 will be burdensome. Paying \$5,258.06 for the adjustments will be catastrophic and will lead to service reductions at a time when access to the Bookmobile is more important than ever. The Bookmobile visits schools whose libraries have been or will be decimated due to cuts in aid to public schools. It visits Senior Centers and low income neighborhoods thereby serving people who would not otherwise have access to a library. It is unfair that these patrons should suffer due to the arbitrary enforcement of rules that are unclear and outmoded.

Thank you for considering this appeal.